

SENATE BILL REPORT

SB 6037

As Reported by Senate Committee On:
Judiciary, January 26, 2012

Title: An act relating to access to reports and records of autopsies and postmortems.

Brief Description: Limiting access to reports and records of autopsies and postmortems.

Sponsors: Senators Delvin, Carrell, Honeyford and Kline.

Brief History:

Committee Activity: Judiciary: 1/13/12, 1/26/12 [DPS, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6037 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Kohl-Welles, Padden and Regala.

Minority Report: That it be referred without recommendation.

Signed by Senator Carrell.

Staff: Juliana Roe (786-7438)

Background: Under current law, the following persons may examine and obtain copies of reports and records of autopsies or postmortems of the decedent: the personal representative of the decedent, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries, or the secretary of the department of social and health services. The term family member includes the surviving spouse, stated registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent at the time of death.

The coroner, medical examiner, or attending physician must meet with the family of the decedent if the family requests to discuss the findings of the autopsy or postmortem.

Summary of Bill (Recommended Substitute): All written reports and records of autopsies or postmortems are available to the personal representative of the decedent, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting

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attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries (L&I), or the secretary of the department of social and health services (DSHS.) In order to be granted access to examine; view; copy; listen to; or record photographs, videos or audio recordings that are part of the written reports and records of autopsies or postmortems, the following persons must obtain a court order: the personal representative, any family member; or attending physician or advanced registered nurse practitioner. The court must prescribe any restrictions or stipulations it deems necessary.

Persons who are granted access to the reports and records of autopsies or postmortems are prohibited from further disseminating, distributing, or publishing the reports and records, except for public health officials, L&I, and the secretary of DSHS.

Advanced registered nurse practitioners must, upon request, meet with the family of the decedent to review autopsy or postmortem findings.

A person who has plead guilty to or been found guilty of a crime that lead to or caused the decedent's death must obtain a court order to gain access to the reports and records of autopsies or postmortems if those reports or records will be used as part of an appeal.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute): All written reports and records of autopsies or postmortems are available to the personal representative of the decedent, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, L&I, or the secretary of the DSHS. In order to be granted access to examine; view; copy; listen to; or record photographs, videos or audio recordings that are part of the written reports and records of autopsies or postmortems, the following persons must obtain a court order: the personal representative, any family member; or attending physician or advanced registered nurse practitioner. The court must prescribe any restrictions or stipulations it deems necessary.

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Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill was created because a man, who plead guilty to killing his wife, requested his wife's autopsy reports once he was released from prison. Under current law, the coroner was required to provide the defendant those reports. The coroner feared that the man would use the reports for an unsavory purpose, such as disseminating them electronically or to punish his wife's family. We don't want to limit access to the reports for the purpose of establishing a defense and that is why this bill deals only with those who have been convicted.

CON: The problem with this bill has to do with its constitutionality. Defendants have a constitutional right to represent themselves in post-conviction proceedings. This bill would preclude them from having access to this information. A better way of approaching this issue would be to control the dissemination, publication, or distribution of the information once obtained.

Persons Testifying: PRO: Sen. Delvin, prime sponsor; John Hansens, Benton County Coroner.

CON: Ramona Brandes, WA Assn of Criminal Defense Lawyers, WA Defender Assn.